

United States District Court
Southern District of Texas
FILED

UNITED STATES DISTRICT COURT

for the
Southern District of Texas

APR 08 2019

David J. Bradley, Clerk of Court

In the Matter of the Search of
(Briefly describe the property to be searched
or identify the person by name and address)Blue Motorola Cell Phone
Model:XT1924-7, IMEI:354138095730685Case No. B-19-359-MJ
CR-303

APPLICATION FOR A SEARCH WARRANT

I, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that on the following person or property (identify the person or describe the property to be searched and give its location):

located in the Southern District of Texas, there is now concealed (identify the person or describe the property to be seized):

A cellular phone belonging to Eric Adam Swede HILL held at the United States Weslaco Border Patrol Station at 1501 US-83, Weslaco, TX 78599. The cellular phone is described as a Blue Motorola Cell Phone Model:XT1924-7, IMEI:354138095730685. (See Attachment A)

The basis for the search under Fed. R. Crim. P. 41(c) is (check one or more):

- ☒ evidence of a crime;
- ☒ contraband, fruits of crime, or other items illegally possessed;
- ☒ property designed for use, intended for use, or used in committing a crime;
- ☐ a person to be arrested or a person who is unlawfully restrained.

The search is related to a violation of:

Code Section	Offense Description
8 U.S.C. § 1324	Conspiracy to transport and transporting aliens within the United States

The application is based on these facts:
See attached Affidavit

- ☒ Continued on the attached sheet.
- ☐ Delayed notice of _____ days (give exact ending date if more than 30 days: _____) is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.

Applicant's signature

Clayton E. Peterson, Border Patrol Agent

Printed name and title

Sworn to before me and signed in my presence.

Date: 04/08/2019

City and state: Brownsville, Texas

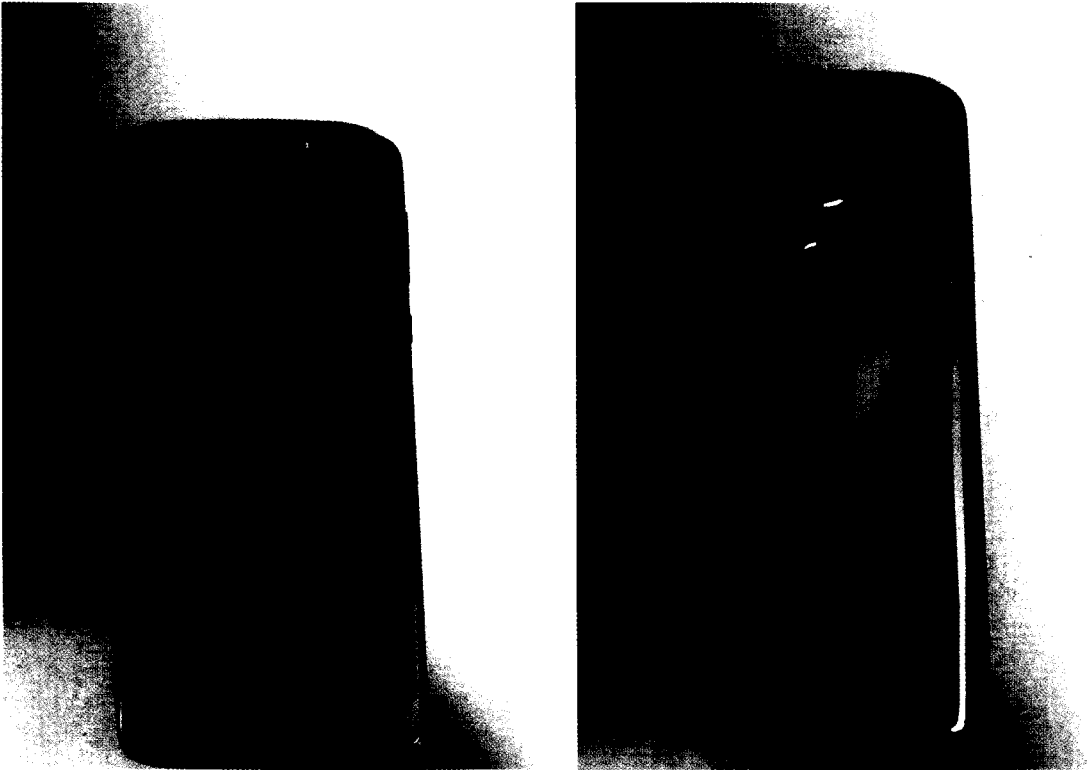
Judge's signature

Ronald G. Morgan, U.S. Magistrate Judge

Printed name and title

ATTACHMENT A

Blue Motorola Cell Phone, Model:XT1924-7, IMEI:354138095730685, located at:
Weslaco Border Patrol Station, 1501 East Expressway 83, TX 78599



ATTACHMENT B

1. All records and information, contained in a Blue Motorola Cell Phone Model:XT1924-7, IMEI:354138095730685, that involve Eric Adam Swede HILL and relate to violations of 8 U.S.C. §§ 1324 (transporting aliens within the U.S.):

- a. any information related to alien smuggling (including saved contacts, phone logs, text messages, voice mails, videos, photos, or any other saved records); and
- b. evidence of user attribution showing who used or owned the Device at the time the things described in this warrant and attachment were created, edited, or deleted, such as logs, phonebooks, saved usernames and passwords, documents, and browsing history.

2. As used above, the terms “records” and “information” include all of the foregoing items of evidence in whatever form and by whatever means they may have been created or stored (including, for example: call logs, contact lists, voicemails, and text messages), including any form of computer or electronic storage (such as flash memory or other media that can store data) and any photographic form.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION

United States District Court
Southern District of Texas
FILED

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In the Matter of the Search of a
Blue Motorola Cell Phone
Model:XT1924-7, IMEI:354138095730685

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David J. Bradley, Clerk of Court

CR - 303

Criminal No. B-19-359-MJ

Currently Located at the
United States Border Patrol
Weslaco Border Patrol Station
1501 East Expressway 83
Weslaco, TX 78599

AFFIDAVIT IN SUPPORT OF AN APPLICATION UNDER RULE 41 FOR A
WARRANT TO SEARCH AND SEIZE

I, Clayton E. Peterson, being first duly sworn, hereby depose and state as follows:

INTRODUCTION AND AGENT BACKGROUND

1. I make this affidavit in support of an application under Fed. R. Crim. P. 41 for a warrant to search a Blue Motorola Cell Phone Model:XT1924-7, IMEI:354138095730685, here after the "Device", which is currently stored, in law-enforcement possession, at the United States (US) Border Patrol (BP) Weslaco Border Patrol Station, 1501 E. Expressway 83, Weslaco, Texas 78599, for certain things particularly described in Attachment A and B.


2. In my training and experience, I know that the Device has been stored in a manner in which its contents are, to the extent material to this investigation, in substantially the same state as they were when the Device first came into the possession agents.

3. The Device is currently in the lawful possession of BP as a result of a seizure incident to arrest. While agents might already have all necessary authority to search the Device, I seek this additional warrant out of an abundance of caution to be certain that a search of the Device will comply with the Fourth Amendment and other applicable laws.

4. I am an Agent with BP assigned to the Prosecutions Department in Brownsville, Texas. I have served as a BP Agent since September 2007 and have been assigned to the Prosecutions Department since August of 2018. I am a law enforcement officer of the U.S., within the meaning of 18 U.S.C. § 2510(7), who is empowered to conduct investigations of,

and to make arrests for, offenses enumerated in 18 U.S.C. § 2516. I am classified, trained, and employed as a federal law enforcement officer with statutory arrest authority charged with conducting criminal investigations of alleged violations of federal criminal statutes

5. During my career, I have been a part of numerous arrests linked to harboring and transporting of undocumented aliens. Through these arrests, along with my training and experience and conversations with other agents and law-enforcement personnel, I have become familiar with the methods used by human smugglers to smuggle and safeguard undocumented aliens and to thwart or evade investigations of their trafficking organizations. One of the tactics frequently used by these organizations is the consistent use of cellular telephones and cellular telephones equipped with radio transmitters to coordinate the smuggling arrangements of undocumented aliens in furtherance into the U.S. I am aware that members of these organizations often store co-conspirators' telephone numbers in the telephone memory and communicate using code names through cellular telephones and their radio transmitters to facilitate transactions and to conceal their identities.

6. This affidavit is being submitted for the limited purpose of establishing probable cause to secure a search warrant for the Device. As such, not all facts known to me or other agents concerning this investigation have been included. This affidavit was approved  for filing by an Assistant U.S. Attorney.

PROBABLE CAUSE

1. On March 16, 2019, Weslaco Border Patrol Agents responded to a call for assistance from the Department of Public Safety to conduct an immigration inspection at the McCreery Aviation Company Airport in McAllen, Texas. The DPS officers required assistance determining the nationality and immigration status of three subjects that were boarding a privately charter airplane. This inspection and interview led to the discovery of a smuggling attempt where one of the subjects identified as Eric Adam Swede HILL was attempting to smuggle two Colombian nationals who had no immigration documents to enter or remain in the U.S. In addition, agents seized a cell phone (the Device) which was in the possession of Eric Adam Swede HILL at the time of his arrest. HILL was identified by the two Colombian subjects serving as material witnesses as the person who picked them up at a parking lot, harbored them for two days in a hotel, and who was going to attempt to transport them further

into the U.S. via a charter airplane. The undocumented aliens said HILL used his cell phone to communicate with other unnamed conspirators.

2. On April 2, 2019, Eric Adam Swede HILL was indicted by a federal grand jury for Conspiracy to transport illegal aliens and the transporting of illegal aliens. The Device has been in service custody since the time of his arrest. It is this agent's belief that this phone was used to give or receive phone calls, text messages, coordinate meeting times or other communications to and from the alien smugglers involved in this conspiracy.

3. The affiant asserts that there is probable cause to believe that the Device, which was recovered from Eric Adam Swede HILL, has evidence of alien smuggling. HILL was apprehended as he was attempting to transport undocumented aliens via a charter airplane. The material witnesses saw the alien smugglers using their cell phones to further the alien smuggling venture. Additionally, it is known that members of these organizations often store co-conspirators' telephone numbers in the telephone memory and communicate using code names through cellular telephones and their radio transmitters to facilitate transactions.

ELECTRONIC DEVICES AND STORAGE

4. As described herein and in Attachment B, this application seeks permission to search and seize things that the Device might contain, in whatever form they are stored. Based on my knowledge, training, and experience, I know that electronic devices can store information for long periods of time. Even when a user deletes information from a device, it can sometimes be recovered with forensics tools. Similarly, things that have been viewed via the Internet are typically stored for some period of time on the device. This information can sometimes be recovered with forensics tools.

5. Searching for the evidence described in Attachment B may require a range of data-analysis techniques. In some cases, agents and computer analysts may be able to conduct carefully-targeted searches that can locate evidence without requiring a time-consuming manual search through unrelated materials that may be commingled with criminal evidence. In other cases, however, such techniques may not yield the evidence described in the warrant.

Criminals can mislabel or hide information, encode communications to avoid using key words, attempt to delete information to evade detection, or take other steps designed to frustrate law enforcement searches for information. These steps may require agents and law enforcement or other analysts with appropriate expertise to conduct more extensive searches, such as scanning storage areas unrelated to things described in Attachment B, or perusing all stored information briefly to determine whether it falls within the scope of the warrant. In light of these difficulties, BP Agents intend to use whatever data-analysis techniques appear necessary to locate and retrieve the evidence described in Attachment B.

CONCLUSION

6. I submit that this affidavit supports probable cause for a warrant to search the Device and seize the items described in Attachment B.

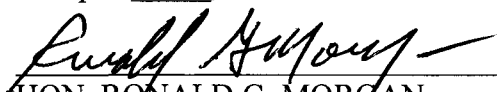
Respectfully submitted,



Clayton E. Peterson
Border Patrol Agent
United States Border Patrol

Subscribed and sworn to before me

on April 8, 2019:



HON. RONALD G. MORGAN
UNITED STATES MAGISTRATE JUDGE